

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Jennifer A. Hadsall, Regional Director
of the Eighteenth Region of the National
Labor Relations Board, for and on behalf
of the National Labor Relations Board,

Case No. 17-cv-3978 (WMW/DTS)

Petitioner,

**ORDER GRANTING PETITIONER'S
MOTION FOR VOLUNTARY
DISMISSAL**

v.

Richfield Hospitality, Inc., as managing
Agent for Kahler Hotels, LLC,

Respondent.

This matter is before the Court on Petitioner Jennifer A. Hadsall's motion for voluntary dismissal without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2). (Dkt. 24.) For the reasons addressed below, the Court grants Hadsall's motion.

BACKGROUND

Hadsall filed a petition alleging that Respondent Richfield Hospitality, Inc., engaged in unfair labor practices in violation of the National Labor Relations Act, 29 U.S.C. §§ 151 *et seq.* Richfield Hospitality filed a timely answer to the petition. The parties subsequently submitted formal settlement stipulations to the National Labor Relations Board (Board), and jointly moved this Court to stay this proceeding pending Board approval of their settlement. The joint motion to stay included the parties'

agreement that Hadsall would move to voluntarily dismiss the petition without prejudice if the Board approved the settlements. The Court granted the joint motion and stayed this litigation. On January 12, 2018, the Board approved the parties' formal settlement stipulations, and Hadsall thereafter filed the pending motion to voluntarily dismiss the petition pursuant to Rule 41(a)(2), Fed. R. Civ. P. Richfield Hospitality filed no response in opposition to Hadsall's motion for voluntary dismissal.

ANALYSIS

After a defendant has served its answer, "an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper." Fed. R. Civ. P. 41(a)(2). The decision to grant a plaintiff's motion for voluntary dismissal under Rule 41(a)(2) rests within the district court's discretion. *Mullen v. Heinkel Filtering Sys., Inc.*, 770 F.3d 724, 727-28 (8th Cir. 2014). A district court may consider several factors when determining whether to permit voluntary dismissal, including the explanation given, whether dismissal would result in a waste of judicial resources or create unnecessary expense, and whether dismissal would be prejudicial to the defendant. *See Donner v. Alcoa, Inc.*, 709 F.3d 694, 697 (8th Cir. 2013).

Hadsall moves to dismiss her petition in light of the Board approving the parties' formal settlement stipulations. A voluntary dismissal in this circumstance reflects the efforts of the parties to resolve the issues underlying the petition on mutually agreeable terms. In their joint motion to stay, the parties agreed that Hadsall would move to voluntarily dismiss her petition without prejudice if the Board approved the formal settlement stipulations. Hadsall did just that, and Richfield Hospitality filed no

opposition to Hadsall's motion. For this reason, it does not appear that Richfield Hospitality will suffer any prejudice if the motion is granted.

Accordingly, the Court grants Hadsall's motion for voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(2).

ORDER

Based on the foregoing analysis and all the files, records and proceedings herein, **IT IS HEREBY ORDERED** that Petitioner Jennifer A. Hadsall's motion for voluntary dismissal without prejudice, (Dkt. 24), is **GRANTED**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: February 20, 2018

s/Wilhelmina M. Wright
Wilhelmina M. Wright
United States District Judge